

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ANTONIO M. REYES CACERES,

Plaintiff,

-against-

COMMISSIONER OF SOCIAL SECURITY,

Defendant.
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ORDER
18-CV-6790 (KHP)


KATHARINE H. PARKER, UNITED STATES MAGISTRATE JUDGE:

On Monday, November 27, 2023, counsel for Plaintiff filed a Motion for Attorneys' Fees pursuant to 42 U.S.C § 406(b), along with supporting documentation. Unlike attorney's fees awarded pursuant to the Equal Access to Justice Act, which are paid by the Government, fees awarded pursuant to § 406(b) are payable from the claimant's past due benefits, and accordingly, Defendant has no direct financial stake in the outcome of this fee application. That said, Defendant may "play[] a part in the fee determination resembling that of a trustee for the claimants." *Gisbrecht v. Barnhart*, 535 U.S. 789, 798 n.6. (2002).

Accordingly, by **Wednesday, December 20, 2023**, Defendant shall file a letter stating its position, if any, on Plaintiff's fee request and specifically stating whether Defendant considers the fee "reasonable" in accordance with the factors set forth in *Wells v. Sullivan*, 907 F.2d 367, 372 (2d Cir. 1990).

SO ORDERED.

Dated: November 29, 2023
New York, New York



KATHARINE H. PARKER
United States Magistrate Judge